



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

April 18, 2019

Brian A. Wainger
Kaleo Legal
4456 Corporation Lane, Suite 135
Virginia Beach, VA 23462
Via e-mail: bwainger@kaleolegal.com

David G. Barger
GREENBERG TRAURIG, LLP
1750 Tysons Boulevard, Suite 1200
McLean, VA 22102
Via e-mail: BargerD@gtlaw.com

Re: RMS Titanic, Inc.'s plans to visit RMS *Titanic* in 2019

Dear Mr. Wainger and Mr. Barger,

On April 5, 2019, RMST's Director of Special Projects, David Gallo, contacted NOAA regarding RMST's intention to conduct a short expedition to the *Titanic* wreck site in 2019.

Mr. Gallo indicated that the purpose of the expedition is to test a new virtual reality camera system mounted on an ROV. RMST's intention is to use the camera as the main imaging camera during a more extensive expedition in 2020, in conjunction with Bill Lange (Advanced Imaging and Visualization Laboratory). In addition, RMST plans to create a baseline map of *Titanic's* bow area prior to any other proposed expeditions that may visit the wreck site in 2019. Finally, we understand that RMST is considering recovering an artifact from the debris field of the *Titanic* wreck site in order "to strengthen RMST's role as salvor-in-possession of the wreck site." (E-mail from David Gallo to David Alberg, April 5, 2019).

NOAA encourages RMST to notify the Court of its expedition plans, including any plans to conduct salvage, to ensure any proposed expedition does not violate the Court's orders.

In addition, as you are aware, Congress enacted Section 113 of the Consolidated Appropriations Act, 2017, which provides:

For fiscal year 2017 and each fiscal year thereafter, no person shall conduct any research, exploration, salvage, or other activity that would physically alter or disturb the wreck or wreck site of the RMS Titanic unless authorized by the Secretary of Commerce per the provisions of the Agreement Concerning the Shipwrecked Vessel RMS Titanic [the "International Agreement"]. The Secretary of Commerce shall take appropriate actions to carry out this section consistent with the Agreement.

On August 29, 2018, the Secretary of Commerce delegated, in part, Section 113 authority to the NOAA Administrator. Any proposed expedition by RMST involving salvage or other activity that may alter or disturb the wreck or wreck site would require an authorization in accordance with Section 113, in addition to any requirements imposed by the Court.

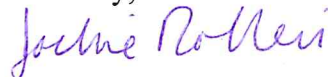
Pursuant to orders from the United States District Court for the Eastern District of Virginia, RMST is the exclusive salvor-in-possession of *Titanic* and the Eastern District of Virginia has constructive *in rem* jurisdiction over the *Titanic* wreck and wreck site. NOAA intends to continue implementing Section 113 in a manner that is consistent with the Court's admiralty jurisdiction and orders and does not impact RMST's salvor-in-possession status. *See R.M.S. Titanic, Inc. v. The Wrecked and Abandoned Vessel*, 531 F.Supp. 691, 693 (E.D.Va. 2007) (entrusting the United States "to review RMST's continuing actions as salvor . . . as well as a salvage award motion . . . in order to preserve and protect the R.M.S. *Titanic* . . . and to ensure compliance with this court's rulings and final orders.") Given RMST's status as exclusive salvor-in-possession, NOAA will not unreasonably withhold a Section 113 authorization but may condition such authorization in a manner that ensures any activities undertaken at the wreck site are conducted in a manner that is consistent with Section 113, the International Agreement, and the NOAA Guidelines.

NOAA, therefore, requests that your client send a letter addressed to David Alberg (David.Alberg@noaa.gov) by April 29, 2019, providing the information identified in the Annex Rules to the International Agreement, for NOAA to assess whether RMST's proposed expedition requires and qualifies for a Section 113 authorization. Parts I through XIII of the Annex Rules to the International Agreement describe the information needed and are nearly identical to Parts I through XIII of the NOAA Guidelines (66 Fed. Reg. 18905, Apr. 12, 2001). Note that Part I does not require specific information but, rather, states the General Principles that must be followed. If RMST expects to salvage any artifacts, NOAA also strongly encourages RMST to explain how the salvage is "justified by educational, scientific, or cultural interests, including the need to protect the integrity of RMST *Titanic* and/or its artifacts from a significant threat." Int'l Agr. Art. 4, Para. 2.

Additional information relating to expeditions to the *Titanic* wreck and wreck site, including the 1986 *Titanic* Maritime Memorial Act, the NOAA Guidelines, the International Maritime Organization Circular MEPC.1/Circ.779 (Pollution Prevention Measures in the Area Surrounding the Wreckage of RMS *Titanic*), is available on NOAA's website at https://www.gc.noaa.gov/gcil_titanic.html.

Please let me know if you have any questions.

Sincerely,



Jackie Roller
Office of the General Counsel
Oceans and Coasts Section
National Oceanic and Atmospheric Administration

cc: Kent P. Porter, DOJ